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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,700	12/02/2004	Tomonao Kawashima	OOCL-188 (PC-P1821US)	6889
26479	7590	08/05/2009	EXAMINER	
STRAUB & POKOTYLO 788 Shrewsbury Avenue TINTON FALLS, NJ 07724			BOR, HELENE CATHERINE	
		ART UNIT	PAPER NUMBER	
		3768		
		MAIL DATE	DELIVERY MODE	
		08/05/2009	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/516,700	KAWASHIMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	HELENE BOR	3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 April 2009.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19,22,24-26 and 29-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 19,22,24-26 and 29-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>02/17/2009 &amp; 05/26/2009</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-22, 24-26 & 28-32 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim element "auxiliary image creating means" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

The Specification describes the function of the auxiliary image creating means on page 98, however, the Examiner was unable to determine the corresponding structure for that element, whether the auxiliary image creating means uses a marker in front of the imaging element or whether the auxiliary image creating means was software based.

Applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that

one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

- (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or
- (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) aid MPEP 2181 and 608.01(0).

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 19-22, 24-26 & 28-32 are rejected under 35 U.S.C. 103(a) as being anticipated by Strommer et al. (US Patent Application No. 2002/0049375 A1) and further in view of Ishiguro (US Patent No. 6,108,439).

**Claim 19, 25-26 28-29 & 30-32:** Strommer teaches an ultrasonic diagnostic apparatus obtaining plural ultrasonic tomographic images at a process that an ultrasonic probe moves and scans within a body cavity of a body to be examined (Page 4, Para 0038). Strommer teaches the apparatus comprising position information detecting means for detecting three dimensional position information of plural ultrasonic tomographic images obtained in a process that the ultrasonic probe moves within a body cavity of a body to

be examined (Page 3, Para 0031 & 0037). Strommer teaches tomographic parallel images constructing means for constructing plural tomographic parallel images arranged along a non-linear scan path of the ultrasonic probe based on the position information obtained by the three dimensional position information detecting means (Page 4, Para 0044). Strommer fails to teach the directional markers. However, Ishiguro teaches marker means which are necessary for generating a 3D ultrasound image (Col. 5, Line 50-52. It would have been obvious to one of ordinary skill in the art to modify the system of Strommer to include the markers as taught by Ishiguro for generating a 3D ultrasound image (Col. 5, Line 50-52).

**Claim 22 & 24:** Strommer teaches an ultrasonic diagnostic apparatus further comprising display control means for causing display means to display the ultrasonic tomographic image and the tomographic parallel images so as to compare (Figure 22, Element 836, 834 & 838).

***Response to Arguments***

5. Applicant's arguments with respect to claim 19, 22, 24-26, 29-32 have been considered but are moot in view of the new ground(s) of rejection. However, any relevant remaining arguments will be addressed. The Applicant submitted the argument that "these illustrations are not intended to be displayed" (Page 10). The Examiner respectfully disagrees and contends that the display device of Strommer is capable of displaying the illustrations as claimed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENE BOR whose telephone number is (571)272-2947. The examiner can normally be reached on M-T 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. B./  
Examiner, Art Unit 3768

/Eric F Winakur/  
Primary Examiner, Art Unit 3768